



STAFF REPORT

April 17, 2002 (meeting date)
(Consent)

PROPOSAL: LAFCO 02-04 OASA – Out of Agency Service Agreement between the City of San Buenaventura and Antonio Fernandez

PURPOSE: To allow the City of San Buenaventura to provide potable water service to a new single-family dwelling

PROPONENT: City of San Buenaventura

SIZE: Approximately 3,750 square feet

LOCATION: The site is located in the Saticoy town ship approximately 300 feet east of Wells Road, addressed as 11414 Rosal Lane, in the San Buenaventura Sphere of Influence and Area of Interest.

**ASSESSOR'S
PARCEL NO.S:** Assessor's Parcel No. 090-0-152-240

NOTICE: This matter has been noticed in the manner prescribed by law.

RECOMMENDATION:

Adopt the attached resolution (LAFCO 02-04 OASA) approving the out of agency service agreement for potable water service between the City of San Buenaventura and Antonio Fernandez.

COMMISSIONERS AND STAFF:

COUNTY: Steve Bennett, Chair Kathy Long Judy Mikels, Alternate	CITY: Linda Parks John Zaragoza Evaristo Barajas, Alternate	PUBLIC: Louis Cunningham, Vice Chair Kenneth M. Hess, Alternate	SPECIAL DISTRICT: Jack Curtis John Rush Dick Richardson, Alternate
EXECUTIVE OFFICER: Everett Millais	PLANNER III: Hollie Brunsky	CLERK: Debbie Schubert	LEGAL COUNSEL: Noel Klebaum

SPECIAL ANALYSIS:

1. Basis for Review:

Section 56133 of the Government Code requires LAFCO approval of contracts or agreements by a city or district to provide new or extended services outside of its jurisdictional boundaries. Out of agency service agreements between a public agency and a private party have generally been subject to LAFCO approval since 1994.

The Commissioner's Handbook, January 1, 2002, Section 5.1.6, states that LAFCO must make a favorable determination on at least one of three factors to approve an out of agency service agreement. Section 5.1.6.ii. allows a favorable determination for an out of agency service agreement if the Commission finds there is a lack of continuity of boundaries that makes annexation infeasible.

Although the proposal area is within the sphere of influence for the City of San Buenaventura, the site is not contiguous with the city boundaries. Therefore, annexation of the parcel into the City would be infeasible. Thus, the property owner entered into agreement with the City of San Buenaventura for an Out of Agency Service Agreement to provide water service to a single-family dwelling on March 13, 2002.

2. Compliance with General Policies:

The owner of the property, Antonio Fernandez, is proposing to construct a single family dwelling on an existing parcel. There is an existing water line near the parcel that can be extended to connect the site.

The Commissioner's Handbook (Section 2.5.2) provides that for proposals by a City, the City's General Plan should be the determining document for General Plan consistency. This is also consistent with the Guidelines for Orderly Development for territory within a city's sphere of influence. In this instance, the City's General Plan designation for the site is Existing Urban. This designation means that the existing County zone designation of R-2 (two family residential – minimum of 3,500 sq. ft. of lot area per dwelling unit) is appropriate and consistent with the City's General Plan.

The proposal area is not considered agricultural and there are no agricultural sites in the near vicinity. The area is to be developed with a single family dwelling immediately upon the connection of the requested out of agency water service and has been designated for non-agricultural uses. The site is considered to be

in an urban area and the proposal will not result in the conversion of prime agricultural or open space land to other uses.

The City of San Buenaventura is the only public agency available to provide this property with potable water service, as the property is not within the jurisdiction of any other agency that could provide water.

The Agreement for Water Service, approved by the City of San Buenaventura and Antonio Fernandez, contains a covenant and agreement to annex that will be recorded. The agreement states that the landowner or any person succeeding the landowner's interest, shall consent to the annexation of said territory in the event the property becomes contiguous with the service agency boundaries.

3. Environmental Impact of the Proposal:

The City of San Buenaventura was the lead agency for this proposal. However, the City did not prepare any type of environmental review document for this proposal. Under Section 15052(a)(1) of the California Environmental Quality Act (CEQA) Guidelines, it states that the responsible agency shall assume the role of the lead agency when the lead agency did not prepare any environmental documents for the project. As such, LAFCO staff has prepared a Notice of Exemption for the proposal.

The proposal is determined to be categorically exempt under Section 15303(d) of the CEQA Guidelines that exempts water main, sewage, electrical, gas, and other utility extensions to serve such construction as single-family dwellings.

ALTERNATIVE ACTIONS AVAILABLE:

- A. If the Commission, following public testimony and the review of the materials submitted, determines that further information is necessary, a motion to continue should state specifically the type of information desired and specify a date certain for further consideration.
- B. If the Commission, following public testimony and review of materials submitted with this application wishes to deny or modify this application, a motion to deny should include adoption of this Report and all referenced materials as part of the public record.

Staff: Hollee King Brunsky

BY: _____
Everett Millais, Executive Officer

Attachments: (1) Notice of Exemption
(2) Vicinity Map
(3) Resolution 02-04 OASA – City of San Buenaventura/Fernandez
(4) Extraterritorial Water Service Agreement between the City of San Buenaventura and Antonio Fernandez



NOTICE OF EXEMPTION

TO: ☒ **County Clerk**
County of Ventura
800 South Victoria Ave.
Ventura, CA 93009

FROM: **Ventura LAFCO**
800 South Victoria Ave.
Ventura, CA 93009-1850

A. PROJECT DESCRIPTION:

1. **Entitlement:** Out of Area Service Agreement
2. **Applicant:** City of San Buenaventura
3. **Location:** 11414 Rosal Lane, Saticoy area **County:** Ventura
4. **Assessor Parcel No(s):** 090-0-152-240
5. **Project Description:** Out of Area Service Agreement between the City of San Buenaventura and Antonio Fernandez to provide potable water service to a single-family dwelling.

B. CONTACTS:

1. **Public Agency Approving Project:** Ventura LAFCO
2. **Contact Person:** Hollee King Brunsky
3. **Telephone No.:** 805-654-2866

C. EXEMPT STATUS: (Check One)

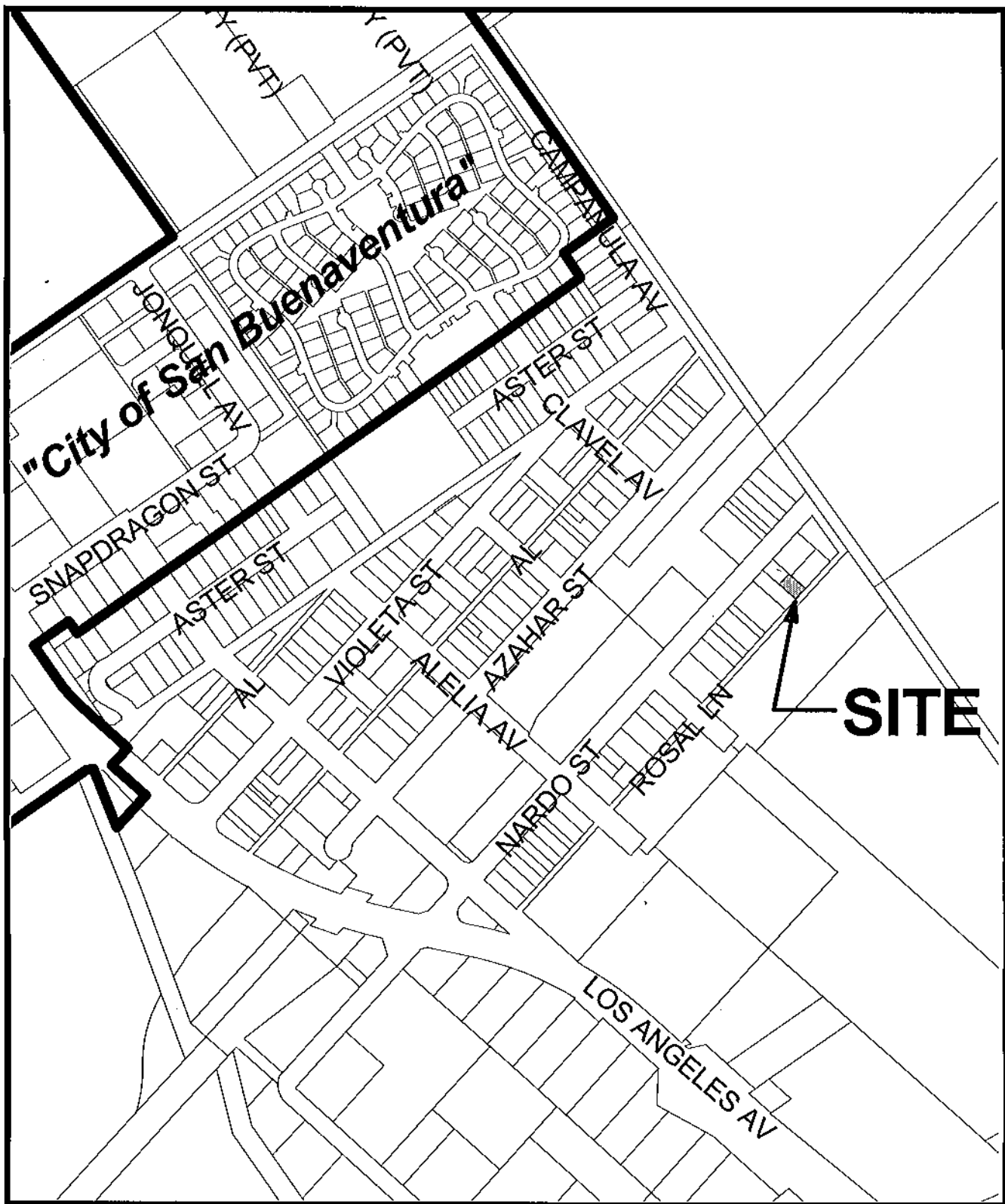
- ☐ Ministerial (Sec. 15268)
- ☐ Emergency Project (Sec.)
- ☒ Categorical Exemption (Sec. 15303)
- Type: **Class 3(d) – New Construction of Small Structures**
- The proposed project is not located in a hazardous or critical environmental resource area (Classes 3, 4, 5, 6, and 11), there are no significant adverse cumulative impacts, and there are no unusual circumstances which would cause significant effects.
- ☐ No Impact: (Sec. 15061 [b][3])
- ☐ Other Statutory Exemption (Sec.)

D. STATEMENT OF REASON TO SUPPORT EXEMPT FINDING:


Section 15303 (d) exempts water main, sewage, electrical, gas, and other utility extensions to serve such construction as single-family dwellings.

DATE OF PROJECT APPROVAL: April 17, 2002

Prepared by: Hollee King Brunsky, Planner III



Legend

 City of San Buenaventura Boundary

 Proposed Annexation

LAFCO 02-04 OASA
(OUT OF AREA SERVICE AGREEMENT)

VICINITY MAP

CITY OF SAN BUENAVENTURA
ANTONIO FERNANDEZ



Prepared By: PWA-WRED - County Surveyor - 03/08/02

1"= 500"

LAFCO 02-04 OASA

**RESOLUTION OF THE VENTURA LOCAL AGENCY
FORMATION COMMISSION MAKING DETERMINATIONS
AND APPROVING THE OUT OF AGENCY SERVICE
AGREEMENT BETWEEN THE CITY OF SAN
BUENAVENTURA AND ANTONIO FERNANDEZ FOR
WATER SERVICE.**

WHEREAS, the above-referenced proposal has been filed with the Executive Officer of the Ventura Local Agency Formation Commission pursuant to the Cortese/Knox/Hertzberg Local Government Reorganization Act of 2000 (Section 56000 of the California Government Code); and

WHEREAS, at the times and in the manner required by law, the Executive Officer gave notice of the consideration by the Commission of the proposal; and

WHEREAS, the proposal was duly considered on April 17, 2002; and

WHEREAS, the Commission heard, discussed and considered all oral and written testimony for and against the proposal including, but not limited to, the LAFCO Executive Officer's Staff Report and recommendation, the environmental document or determination, Sphere of Influence and applicable General and Specific Plans; and

WHEREAS, the proposal area is within the Sphere of Influence of the City of San Buenaventura; and

WHEREAS, annexation of the proposal area to the City of San Buenaventura is not feasible at this time as the area is not contiguous to the existing City boundary; and

WHEREAS, the need for potable water service for new development has been documented to the satisfaction of the Commission; and

WHEREAS, the City of San Buenaventura is the logical and an efficient provider of water service to the proposal area; and

WHEREAS, the City of San Buenaventura has agreed to a recorded covenant which provides that Antonio Fernandez or any person succeeding to the landowner's interest, shall consent to the annexation of said territory in the event the property becomes contiguous with the City of San Buenaventura boundaries.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED by the Local Agency Formation Commission of Ventura as follows:

- (1) The LAFCO Executive Officer's Staff Report and Recommendation for approval of the proposal dated April 17, 2002 is adopted.
- (2) Said Out of Agency Service Agreement is hereby adopted as approved by the City of San Buenaventura and Antonio Fernandez.
- (3) The subject proposal is assigned the following distinctive short form designation:

**LAFCO 02-04 OASA - Out of Agency Service Agreement
between the City of San Buenaventura and Antonio
Fernandez**

- (4) The Commission has reviewed and considered the evidence and finds that the proposal is Categorically Exempt under Section 15303 (d), of the State CEQA Guidelines.
- (5) The Commission directs staff to file a Notice of Exemption in the same manner as a lead agency under Section 15094.

This resolution was adopted on April 17, 2002.

AYES:

NOES:

ABSTAINS:

Dated: _____
Chair, Ventura Local Agency Formation Commission

Copies: City of San Buenaventura
Antonio Fernandez
County Auditor
County Elections
County Assessor
County Surveyor

**EXTRATERRITORIAL WATER SERVICE AGREEMENT
BETWEEN
THE CITY OF SAN BUENAVENTURA AND ANTONIO FERNANDEZ
(ASSESSOR PARCEL NUMBER 090-0-152-240)**

This Agreement is made and executed on the dates set forth below by and between the City of San Buenaventura, a municipal corporation of the state of California (hereinafter the "City"), and Antonio Fernandez owner of certain property located in the unincorporated territory of the county of Ventura (hereinafter "Owner")

Whereas, Owner owns the property located in the unincorporated territory of the county of Ventura described and depicted in Exhibits "A" (legal description) and "B" (site plan) attached hereto and by this reference incorporated herein (hereinafter "the Property"); and,

Whereas, AP No. 090-0-152-240 the Property is currently unimproved and the Owner is proposing to improve the Property by constructing a single family residence on the Property (hereinafter "the Property Improvements");

Whereas, Owner has applied to City for authorization to connect the Property Improvements to the potable water system that is owned and operated by City for the benefit of property located within the incorporated territory of the City; and

Whereas, in accordance with the extraterritorial water service policy set forth in chapter 22.110 of the San Buenaventura Municipal Code (hereinafter "the Code"), City is authorized to provide potable water service to property located outside of the incorporated territory of the City only where the property is or will be used in a manner that conforms to the water service criteria set forth therein; and,

Whereas, City as determined that Owner's use of the Property for the Property Improvements described herein conforms to the extraterritorial water service criteria set forth in the Code in that:

The use is a single family dwelling unit built or to be built on a lot of record in existence on the date an application for water service is filed with the City, provided that the use can be supplied with City water service without extending the City's water distribution mains.

and;

Whereas, by this Agreement, Owner undertakes to comply with all other requirements and agrees to all other covenants provided for in the Code and

other policies of the City that constitute further conditions on the provision of city water service to property located outside of the incorporated territory of the City.

Now, therefore, City agrees to provide potable water service to the Property, and Owner agrees to accept potable water service on the Property from City subject to all of the following conditions set forth herein:

1. Owner's Use of Water

The city water service provided pursuant to this Agreement shall be used on the Property for the Property Improvements described herein and for no other purpose.

In the event the Property Improvements as described herein consist of one or more residential dwelling units, Owner shall not expand such use by increasing the number of residential units on the Property that are connected to the city water system unless City's Utilities Manager has determined that such expanded use complies with City's extraterritorial water policy and has approved water connections to the new dwelling units in writing.

In the event the Property Improvements as described herein consist of a commercial or industrial use, Owner shall not change such use to a different use that is connected to the City water system, unless City's Utilities Manager has determined that such new use complies with City's extraterritorial water policy and has approved water connections to the new use in writing.

2. Water Main Extensions and Other Public Facilities

Connection of the Property Improvements to the city system water shall be made in conformance with the applicable plumbing standards set forth in chapter 12.120 of the Code, and in accordance with any other city policies or requirements applicable thereto. In the event, a water main extension, or other public facilities are required in order to connect the Property Improvements to the city water system, Owner shall cause such main extension or other facilities to be constructed and installed at Owner's sole cost and expense, and in accordance with plans and specification approved by City's Utilities Manager

3. Water Meter and Fixture Requirements

When required by the City's extraterritorial water service policy, the size of the water supply system for the Property and Property Improvements shall not exceed the size of a system that can be connected to and metered by a ¾" water meter. In addition, all plumbing fixtures connected to the water supply system shall comply with the water conservation requirements set forth in Section 402 of

the Uniform Plumbing Code, adopted by reference and incorporated in the Code by Chapter 12.120 of the Code.

4. Water Connection Fees and Water Service Fees

Concurrently with the execution of this Agreement, Owner will pay to City any and all connection fees required by the provisions of Division 22 of the Code at the time of initially connecting the property to the city water system

In addition, at all times that the Property and/or Property Improvements remain connected to the city water system, Owner will pay to City all bi-monthly or other periodic rates and charges for on-going water service required by Division 22 of the Code or any other duly adopted ordinance or regulation of the City.

5. Additional conditions of water service

Owner agrees to comply with all system wide regulations now or hereafter adopted by City bearing on the provision of potable water to property and improvements connected to city water system, specifically including, but not limited to, the system wide regulations adopted in Division 22 of the Code.

In addition, Owner agrees that the water service provided pursuant to this Agreement is being provided on an "as-available" basis. Owner understands that in a time of water shortages, City will be entitled to reduce or even interrupt such water service, all as determined by City in its sole discretion

6. Annexation of the Property to the City

In the event the Property is contiguous to incorporated boundaries of City on the date this Agreement is executed and meets all other statutory standards required to annex the Property to the incorporated territory of City, Owner will commence proceedings before City and the Ventura Local Agency Formation Commission (hereinafter LAFCO) that are necessary to annex the Property to the Incorporated territory. Upon commencement of such proceedings, Owner will cooperate with City and LAFCO in prosecuting the annexation proceedings, and will pay all of City and LAFCO's fees or costs associated with the prosecution of the proceedings.

In the event the Property becomes contiguous to the incorporated boundaries of City subsequent to the date this Agreement is executed and meets all other statutory standards required to annex the property to the incorporated territory of City, Owner will not oppose nor protest any proceedings commenced by City, either before City or LAFCO, to annex the Property to the incorporated territory of City.

Owner understands that and agrees that this Agreement, and the covenants contained herein, is intended to be and shall act as a complete and irrevocable waiver of all rights to protest annexation of the Property to the incorporated territory of City pursuant to the provisions of the Cortese-Knox Local Government Reorganization Act of 1985 (commencing with Section 56000 of the California Government Code), or any other law of the State of California pertaining to city annexation proceedings, whether or not such protest rights are sought to be exercised as an owner of property that is the subject of annexation proceedings or as a registered voter residing on property that is the subject of annexation proceedings.

Owner also agrees that any lease, rental agreement or other agreement hereafter executed by Owner, or any person succeeding to Owner's interest in the fee title to the Property or any part thereof, that grants to a natural person or persons the right to possess and occupy the Property or any part thereof as a personal residence shall contain the following covenant:

"This agreement and the right of lessee or tenant to possess and occupy the property leased or rented pursuant to this agreement shall be subject to the provisions of the Extraterritorial Water Service Agreement that was executed and recorded against this property at the time of and as a condition of connecting the property to the water system owned and operated by the city of San Buenaventura. That agreement contains a complete and irrevocable waiver of any legal right to protest annexation of the property leased or rented pursuant to this agreement to the incorporated territory of the city of San Buenaventura, and is binding on all persons possessing or occupying such property. That Agreement will precludes any person possessing and occupying the property leased or rented pursuant to this agreement from protesting annexation of such property to the incorporated territory of the city of San Buenaventura either before the Ventura Local Agency Formation Commission, the city council of the city of San Buenaventura, or in any other manner authorized by the laws of the state of California pertaining to city annexation proceedings.

City and Owner agree that this Agreement and all conditions set forth herein will terminate upon annexation of the Property to the incorporated territory of City. At such time, Owner shall become entitled to receive city water service on the Property system subject to the same terms and conditions as any other resident or business within the incorporated territory of City is entitled to receive city water service on property within City.

7. Violations

In the event city water service is being utilized on the Property or for the Property Improvements in violation of the provisions of this Agreement, including

any condition on the provision of water service to the Property or the Property Improvements incorporated by reference into this Agreement, City shall cause notice of the violation to be serviced on the Owner, the person(s) succeeding to Owner's interest in the Property or that portion of the Property in violation this Agreement, or the occupant(s) of the Property or portion of the Property in violation of this Agreement

The notice of violation shall be served by first class mail addressed to such person(s) at their last know address, as evidenced by the mailing address of the last paid city water service bill. The notice shall describe the nature of the violation and provide such person(s) with at least 15 days from the date of the notice to cure the violation.

In the event, such person(s) fails to cure the default within the time set forth in the notice of violation, City's Utilities Manager shall be entitled discontinue water service to the Property or portion of the Property in violation of the provisions of this Agreement without further notice until such as the violation has been cured.

A waiver by City of a violation of any provision of this Agreement shall not be deemed a waiver of any subsequent violation of the same or a similar provision, regardless of whether the violation is of the same or a similar character.

8. Agreement Recordation / Covenant Running with the Land

Owner understands and agrees that this Agreement may be recorded against the Property, will run with the Property and each part thereof until terminated in the manner provided herein, and shall be binding on all persons or legal entities succeeding to Owner's interest in and to the Property or any part thereof.

9. Entire Agreement

This Agreement represents the entire Agreement between City and Owner regarding the provision of city water service to the Property and/or Property Improvements. No verbal agreement or representation regarding this Agreement or city water service provided pursuant to this Agreement shall be held to vary the provisions of this Agreement.

In witness whereof, City and Owner have executed this Agreement in the county of Ventura, State of California on the dates set forth below.

CITY*
by

Don Davis
City Utilities Manager

Date

OWNER**

Antonio Fernandez

3/13/02
Date

APPROVED AS TO FORM
Robert G. Boehm, City Attorney
by

Robert G. Boehm, City Attorney

* Notarized signature of Utilities Manager

** Notarized signatures of all persons holding an interest in fee title to the Property

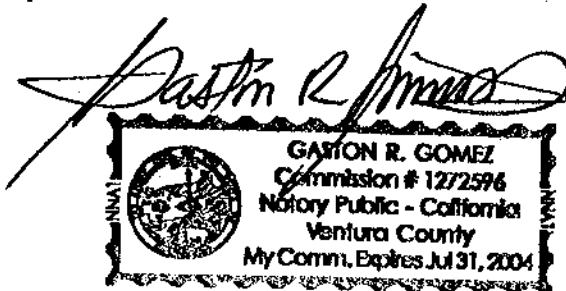


EXHIBIT "A"

APN: 090-0-152-240

PARCEL A:

The Southeasterly one-half of Lots 15 and 16 Block 73, Map of Town of Saticoy, County of Ventura, State of California, as shown on a map recorded in Book 5 Page 36 of Miscellaneous Records (Maps) in the office of the County Recorder of said County, shown as Parcel 2 of that certain Parcel Map Waiver No. 543 recorded October 11, 1990, as Document No. 90-153539, Official Records.

EXCEPT all oil, minerals and other rights granted to Edward W. Haskell by deed dated December 24, 1864 and recorded in Book "B", page 153 of Deeds.

PARCEL B:

A non-exclusive easement for electrical supply systems, communication systems, T.V. cable systems, water supply systems and gas supply systems described as follows:

The Northeasterly 6 feet of the Northwesterly one-half of Lot 15, Block 73, Map of Town of Saticoy, County of Ventura, State of California, as shown on a map recorded in Book 5, Page 36 of Miscellaneous Records (Maps), in the office of the County Recorder of said County.